

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$4,766.32 for date of service 01/19/01.
- b. The request was received on 01/08/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/05/02
 - b. HCFA-1450/UB-92
 - c. TWCC 62 form/Medical Audit summary
 - d. EOB(s) from other carriers
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

The carrier's response is untimely. The carrier was contacted by telephone on 06/18/02 regarding the lack of a 14 day response. The carrier's 14 days to submit the response on 06/18/02 which would make the response due 07/01/02. The response was date stamped 07/02/02.

3. The Commission's case file does not contain a Notice of Request for Medical Dispute Resolution.

III. PARTIES' POSITIONS

1. Requestor: The requestor states in the correspondence dated 01/05/02, "It is (requestor's) position that this facility correctly and appropriately coded and billed for the surgical procedure performed on (claimant) on 01/19/01. Each and every item and service necessary for this surgical procedure including pre-operative and post-operative care were documented

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 01/19/01.
2. The provider billed the carrier \$5,453.32 for services rendered on 01/19/01.
3. The carrier reimbursed the provider \$687.00 for services rendered on date of service 01/19/01.
4. The total amount in dispute for date of service is \$4,766.32.
5. The services provided by the provider include such items as O.R. services, pharmaceutical products, medical and surgical supplies, non-sterile supplies, IV therapy services, Radiology services, anesthesia equipment services, EKG/ ECG monitor services, and Recovery Room services.
6. A medical audit dated 05/16/01 states, "No additional payment is being made as the payment already made by the ... has been determined to be fair and reasonable based on statistical studies of national data performed by the The ...'s fair and reasonable payment has also been made in accordance with the Texas Workers' Compensation Act and Rules." The carrier denied billed services by codes, "M- THE REIMBURSEMENT FOR THE SERVICES RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B)." and "M- FAIR AND REASONABLE REIMBURSEMENT FOR THIS ENTIRE BILL IS MADE ON THE 'OR SERVICE' LINE ITEM."
7. After reviewing all information in the case file, no other EOB(s) or medical audits were noted. The Medical Review Division's decision is rendered based on denial codes submitted to the provider prior to the date of this dispute being file

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgical center. Commission Rule 134.401 (a) (4) states ASC(s) "...shall be reimbursed at a fair and reasonable rate..."

Texas Labor Code Section 413.011 (d) states, "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The Medical Fee Guidelines General Instructions (VI) discuss that if a MAR value has not been established for a CPT code, reimbursement shall be, "...at the fair and reasonable rate."

Because there is no current fee guideline for ASC(s), the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. The provider submitted EOB(s) from other carriers in an effort to document fair and reasonable reimbursement. The burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable. Recent SOAH decisions have placed minimal value on EOB(s) for documenting fair and reasonable reimbursement. The willingness of some carriers to reimburse at or near 100% of the billed charges does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(d) of the Texas Labor Code. The EOB(s) prove no evidence of amounts paid on behalf of managed care patients of ASC(s) or on behalf of other non-workers' compensation patients with an equivalent standard of living. Therefore, based on the evidence available for review, the provider is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 9th day of July, 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.